

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0714-AIR-E TCEQ ID: RN102926920 CASE NO.: 35810
RESPONDENT NAME: Equistar Chemicals, LP

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Equistar Chemicals Bayport Complex, 5761 Underwood Road, Pasadena, Harris County</p> <p>TYPE OF OPERATION: Chemical manufacturing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2008-0923-AIR-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 29, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Fred Reinschmidt, Senior Environmental Engineer, Equistar Chemicals, LP, 5761 Underwood Road, Pasadena, Texas, 77057 Mr. Joseph F. Marschhauser, Plant Manager, Equistar Chemicals, LP, 5761 Underwood Road, Pasadena, Texas, 77057 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

TEXAS
 COMMISSION
 ON ENVIRONMENTAL
 QUALITY
 2008 SEP 22 AM 11:16
 CHIEF CLERKS OFFICE

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 15, 2008</p> <p>Date of NOV/NOE Relating to this Case: March 24, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failed to prevent unauthorized emissions. Specifically, 875 pounds of ethylene and 737 pounds of ethylene oxide were released from Pressure Release Valve 43RV185 at Emission Point Number EOFUG when the Respondent failed to prevent the loss of electrical power to a portion of the plant which caused the unit to shut down, resulting in an emissions event on February 2, 2008 which lasted for 4 minutes (Incident No. 103210). Since the emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b) and Air Permit No. 6257E, Special Condition No. 1].</p>	<p>Total Assessed: \$5,650</p> <p>Total Deferred: \$1,130 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,260</p> <p>Total Paid to General Revenue: \$2,260</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement improvements to designs, operations, and/or maintenance practices that address the causes leading to the February 2, 2008 emissions event and are designed to prevent recurrence of same or similar incidents; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): HG1996R

Attachment A
Docket Number: 2008-0714-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Equistar Chemicals, LP
Payable Penalty Amount:	Four Thousand Five Hundred Twenty Dollars (\$4,520)
SEP Amount:	Two Thousand Two Hundred Sixty Dollars (\$2,260)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Clean School Buses
Location of SEP:	Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The funds will be disbursed on a needs-rated basis, using non-attainment area status, condition of buses, and economic status of the recipient as possible rating factors if competition for the funds exists. To maximize funds, retrofitting will take priority over replacement of buses. Older buses deemed not suitable for retrofitting will be permanently retired and sold only for scrap.

Acceptable retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides (NO_x) reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by the United States Environmental Protection Agency ("EPA") or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate matter and hydrocarbon emissions from buses, to meet the new, more stringent emissions standards introduced by the EPA which will be phased in between 2007 and 2010.

Equistar Chemicals, LP
Agreed Order – Attachment A

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 8, 2008

TCEQ
DATES

Assigned	31-Mar-2008
PCW	26-Apr-2008
Screening	25-Apr-2008
EPA Due	19-Dec-2008

RESPONDENT/FACILITY INFORMATION

Respondent	Equistar Chemicals, LP		
Reg. Ent. Ref. No.	RN102926920		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	35810	No. of Violations	1
Docket No.	2008-0714-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Terry Murphy
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)
Subtotal 1 \$2,500
ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 126% Enhancement **Subtotals 2, 3, & 7** \$3,150

 Notes The penalty was enhanced due to eleven similar NOV's, one nonsimilar NOV's, two 1660 style orders and one court order. The penalty was reduced due to one NOA.
Culpability No 0% Enhancement **Subtotal 4** \$0

 Notes The Respondent does not meet the culpability criteria.
Good Faith Effort to Comply 0% Reduction **Subtotal 5** \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

 Notes The Respondent does not meet the good faith criteria.

Total EB Amounts	\$105
Approx. Cost of Compliance	\$2,500

0% Enhancement* **Subtotal 6** \$0
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7
Final Subtotal \$5,650
OTHER FACTORS AS JUSTICE MAY REQUIRE
0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

 Notes
Final Penalty Amount \$5,650
STATUTORY LIMIT ADJUSTMENT
Final Assessed Penalty \$5,650
DEFERRAL
20% **Reduction** **Adjustment** -\$1,130

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

 Notes Deferral offered for expedited settlement.
PAYABLE PENALTY
\$4,520

Screening Date 25-Apr-2008

Docket No. 2008-0714-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 2 (September 2002)

Case ID No. 35810

PCW Revision March 8, 2005

Reg. Ent. Reference No. RN102926920

Media [Statute] Air

Enf. Coordinator Terry Murphy

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	11	55%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	1	30%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 126%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The penalty was enhanced due to eleven similar NOVs, one nonsimilar NOVs, two 1660 style orders and one court order. The penalty was reduced due to one NOA.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 126%

Screening Date 25-Apr-2008 **Docket No.** 2008-0714-AIR-E **PCW**
Respondent Equistar Chemicals, LP *Policy Revision 2 (September 2002)*
Case ID No. 35810 *PCW Revision March 8, 2008*
Reg. Ent. Reference No. RN102926920

Media [Statute] Air
Enf. Coordinator Terry Murphy

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b) and Air Permit No. 6257E, Special Condition No. 1

Violation Description Failed to prevent unauthorized emissions. Specifically, 875 pounds of ethylene and 737 pounds of ethylene oxide were released from Pressure Release Valve 43RV185 at Emission Point Number EOFUG when the Respondent failed to prevent the loss of electrical power to a portion of the plant which caused the unit to shut down, resulting in an emissions event on February 2, 2008 which lasted for 4 minutes (Incident No. 103210). Since the emissions event was avoidable, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			
	Major	Moderate	Minor	
Actual			X	Percent 25%
Potential				

>> Programmatic Matrix

	Falsification			
	Major	Moderate	Minor	
				Percent 0%
Matrix Notes	Human health or the environment was exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or environment receptors as a result of the violation.			

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 **Number of violation days** 1

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105

Violation Final Penalty Total \$5,650

This violation Final Assessed Penalty (adjusted for limits) \$5,650

Economic Benefit Worksheet

Respondent Equistar Chemicals, LP
Case ID No. 35810
Reg. Ent. Reference No. RN102926920
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,500	2-Feb-2008	6-Dec-2008	0.8	\$105	n/a	\$105

Notes for DELAYED costs

Estimated cost of corrective action. Date required is the date of violation and final date is estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$105

Compliance History

Customer/Respondent/Owner-Operator:	CN600124705	Equistar Chemicals, LP	Classification: AVERAGE	Rating: 2.81
Regulated Entity:	RN102926920	EQUISTAR CHEMICALS BAYPORT COMPLEX	Classification: AVERAGE	Site Rating: 3.70

ID Number(s):	WASTEWATER	PERMIT	WQ0003029000
	WASTEWATER	PERMIT	TPDES0103900
	WASTEWATER	PERMIT	TX0103900
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD982306144
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	38073
	AIR NEW SOURCE PERMITS	AFS NUM	4820100882
	AIR NEW SOURCE PERMITS	PERMIT	83663
	AIR NEW SOURCE PERMITS	PERMIT	6257E
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG1996R
	AIR NEW SOURCE PERMITS	PERMIT	53450
	AIR NEW SOURCE PERMITS	PERMIT	6257F
	AIR NEW SOURCE PERMITS	PERMIT	24932
	AIR NEW SOURCE PERMITS	PERMIT	26681
	AIR NEW SOURCE PERMITS	PERMIT	27151
	AIR NEW SOURCE PERMITS	PERMIT	74933
	AIR NEW SOURCE PERMITS	REGISTRATION	77075
	AIR NEW SOURCE PERMITS	REGISTRATION	77418
	AIR NEW SOURCE PERMITS	REGISTRATION	77771
	AIR NEW SOURCE PERMITS	REGISTRATION	77500
	AIR NEW SOURCE PERMITS	REGISTRATION	78061
	AIR NEW SOURCE PERMITS	REGISTRATION	78854
	AIR NEW SOURCE PERMITS	REGISTRATION	79956
	AIR NEW SOURCE PERMITS	REGISTRATION	82200
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1010818
	WATER LICENSING	LICENSE	1010818
	AIR OPERATING PERMITS	PERMIT	1608
	AIR OPERATING PERMITS	PERMIT	2314
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0621B
	AIR OPERATING PERMITS	PERMIT	1373
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	51237

Location: 5761 UNDERWOOD RD, PASADENA, TX, 77507 Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 14, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 14, 2003 to April 14, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Terry Murphy Phone: (512) 239-5025

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 03/03/2005

ADMINORDER 2004-0458-AIR-E

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 4157A, Special Condition No. 3 PA

Description: Failed to route waste gas from point sources containing volatile organic compounds (VOCs) to the flare (EPN 1-167) or obtain an exception.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 6 PA

Description: Failed to operate the polyethylene production process with a required emergency particulate emission control system for containing emissions from Reactor Dump Valve B

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.354(1)(B)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to conduct yearly monitoring of 136 difficult-to-monitor (DTM) valves in the low-density polyethylene unit for year 2002

Classification: Major

Citation: 5C THC Chapter 382, SubChapter A 382.085(a)

Description: Failed to prevent the unauthorized emissions from the polyethylene unit on February 27-28, 2003

Effective Date: 04/25/2005

COURTORDER

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 & MACT Rate Table PERMIT

Description: Exceeded permitted values for Ethylene Oxide during an emissions event.

Effective Date: 03/08/2008

ADMINORDER 2007-0815-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.722(c)(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Permit # 6257E, Special Condition #1 PA

Description: Failure to prevent unauthorized emission of ethylene.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 101, SubChapter F 101.221(a)
30 TAC Chapter 115, SubChapter H 115.722(d)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)

Rqmt Prov: Permit #6257E, Special Condition #7B PERMIT

Permit #6257E, Special Condition #7D PERMIT

Description: Failure to prevent lost of flare flame.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	04/21/2003	(212923)	36	12/13/2004	(344039)	73	05/25/2006	(373692)
2	04/21/2003	(222659)	38	12/20/2004	(281177)	75	06/19/2006	(505072)
			39	01/12/2005	(388604)	76	06/22/2006	(462252)
3	05/02/2003	(9931)	40	01/19/2005	(336524)	77	07/07/2006	(527370)
4	05/09/2003	(31338)	41	02/14/2005	(426151)	78	08/10/2006	(527371)
5	05/20/2003	(322450)	42	03/16/2005	(388601)	79	09/05/2006	(488332)
6	06/12/2003	(322451)	43	03/16/2005	(342074)	80	09/15/2006	(527372)
7	07/01/2003	(31841)	44	04/13/2005	(426152)	81	10/11/2006	(527373)
8	07/24/2003	(322453)	45	05/12/2005	(426153)	82	11/07/2006	(551134)
9	08/14/2003	(9930)	46	06/10/2005	(426154)	83	12/05/2006	(551135)
10	09/02/2003	(322454)	47	06/27/2005	(396201)	84	01/18/2007	(551136)
11	09/22/2003	(322456)	48	07/11/2005	(446546)	85	02/12/2007	(551133)
12	10/14/2003	(322457)	49	07/13/2005	(348288)	86	02/14/2007	(514773)
13	11/19/2003	(322458)	50	08/05/2005	(446547)	87	03/02/2007	(587732)
14	11/30/2003	(249910)	51	08/10/2005	(404095)	88	04/05/2007	(536838)
15	11/30/2003	(249778)	52	08/23/2005	(404905)	89	04/12/2007	(587733)
16	12/08/2003	(322459)	53	09/14/2005	(446548)	90	05/01/2007	(532613)
17	01/21/2004	(322460)	54	10/04/2005	(393410)	91	05/03/2007	(554897)
18	02/17/2004	(322448)	55	10/14/2005	(479270)	92	05/11/2007	(587734)
19	03/10/2004	(322449)	56	11/09/2005	(479271)	93	06/08/2007	(587735)
20	03/22/2004	(266001)	57	12/19/2005	(479272)	94	07/06/2007	(587736)
21	04/20/2004	(364156)	58	01/12/2006	(479273)	95	07/13/2007	(559637)
22	05/13/2004	(364157)	59	02/10/2006	(453461)	96	07/16/2007	(565220)
23	06/21/2004	(322452)	60	02/10/2006	(479267)	97	08/15/2007	(605178)
24	06/30/2004	(272091)	61	02/14/2006	(453530)	98	09/06/2007	(571788)

25	07/14/2004	(272984)	62	02/14/2006	(453460)	99	09/12/2007	(605179)
26	07/16/2004	(364158)	63	02/14/2006	(453533)	100	10/11/2007	(605180)
27	08/13/2004	(281185)	64	02/14/2006	(453393)	101	11/05/2007	(628503)
28	08/16/2004	(364159)	65	03/10/2006	(453272)	102	12/05/2007	(628504)
29	08/26/2004	(262293)	66	03/13/2006	(479269)	103	01/14/2008	(628505)
30	08/31/2004	(290879)	67	04/11/2006	(456847)	104	01/25/2008	(613136)
31	09/09/2004	(364160)	68	04/18/2006	(505070)	105	01/25/2008	(613421)
32	10/15/2004	(364161)	69	04/25/2006	(457466)	106	02/29/2008	(612847)
33	11/11/2004	(339649)	70	04/27/2006	(462400)	107	03/06/2008	(616814)
34	11/15/2004	(388602)	71	05/16/2006	(505071)	108	03/24/2008	(619007)
35	12/13/2004	(388603)	72	05/25/2006	(457709)			

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/14/2003 (9930)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PA 6257F, Special Condition No. 8

Description: Failure to load EEA (ethylene glycol monoethyl ether acetate); EBA (ethylene glycol monobutyl ether acetate); and DBA (diethylene glycol monobutyl ether acetate) at loading racks R-9 and T-4 only.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PA 6257F, Special Condition No. 9

Description: Failure to load HE; HM; HB; HHM; TM; MEG; DEG; TEG; HEG; MEA; DEA; and TEA at loading racks R-8 (EPN P-206) and T-5 (EPN P-207) only.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PA 6257E, Special Condition No. 1

Description: Emitted 930.9 pounds of ethylene per hour for a total of 27, 928 pounds of ethylene over a 30 hour period from June 24-25, 2003. Equistar also emitted 70 pounds of ethylene oxide over the 30 hour period which amounted to 2.3 pounds / hour.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PA 6257E, Special Condition No. 9B

Description: Failure to maintain records of the November and December 2001 monthly monitoring results of the cooling tower (EPN UCT).

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter K 106.263

30 TAC Chapter 116, SubChapter B 116.115(c)

Description: Failure to maintain complete abrasive blasting & painting records to include the reason for the activity, the process and equipment involved, and the time and duration of the activity for 2002 blasting abrasive and daily paint usage forms.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PA 6257F, Special Condition No. 11

Description: Failure to load within the loading rate of 10,700 gallons per hour on 05/23/2003, 11/19/2002, and 08/08/2001.

Date: 08/26/2004 (262293)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(J)

30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT TCEQ AIR PERMIT #6257E, SC#1

Description: Failed to submit an administratively complete initial emissions event notification.

Date: 11/11/2004 (339649)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT 6257F, S.C. 1

Description: Failure to limit the emissions within the values stated in the MAERT.

Date: 12/16/2004 (281572)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT 4157A

Description: Failure to prevent the premature failure of the reactor due to fouling.

Date: 12/20/2004 (281177)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT 4157A Special Condition 1
 Description: Failure to prevent the failure of the hydraulic oil pumps.
 Date: 04/25/2006 (457466)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT No. 6257E, Special Condition 1
 Description: Equistar Chemicals failed to prevent the malfunction of the mechanical seal of pump 23-6060.
 Date: 06/22/2006 (462252)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: PA #6257F, Special Condition #1
 Description: Failure to prevent the unauthorized emission of ammonia from the pressure safety relief valve to the environment.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)
 Description: Failure to identify the preconstruction authorization (rule or permit #) on the final record.
 Date: 12/31/2006 (551136)
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/21/2007 (536838)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: PA Permit #6257E, Special Condition 1
 Description: Failure to prevent the unauthorized emissions of volatile organic compounds (VOC).
 Date: 05/02/2007 (532613)
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(2)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: PERMIT No. 6257E, Special Condition 16E
 PERMIT No. 6257E, Special Condition 18
 PERMIT No. 6257E, Special Condition 19E
 PERMIT No. 6257F, Special Condition 3E
 PERMIT No. 6257F, Special Condition 5
 OP No. O-01373, Special Condition 15A
 OP No. O-01373, Special Condition 1A
 Description: failure to equip open-ended lines in VOC Service with a cap, plug, blind flange or second valve and failure to close the second valve on an open-ended lines in VOC and Ethylene Oxide service.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(1)(B)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.169(c)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: PERMIT No. 6257F, Special Condition 3(I)
 OP No. O-01373, Special Condition 15A
 OP No. O-01373, Special Condition 1A
 Description: failure to repair two leaking pumps within 15 days of the date they were found leaking.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.722(d)(1)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: PERMIT No. 6257E, Special Condition 7A
 PERMIT No. 6257E, Special Condition 7D

	OP No. O-01373, Special Condition 15A		
	OP No. O-01373, Special Condition 1A		
Description:	failure to maintain the net heating value to the Plant Flare at a minimum value of 300 Btu/scf.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	PERMIT No. 6257F, Special Condition 3H OP No. O-01373, Special Condition 15A		
Description:	failure to attach a tag to a leaking component indicating the component is leaking and needs repair.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(d)(2) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	PERMIT No. 6257E, Special Condition 16F OP No. O-01373, Special Condition 15A OP No. O-01373, Special Condition 1A		
Description:	failure to monitor 21 components in VOC service for fugitive emissions.		
Date:	03/03/2008 (612847)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THSC Chapter 382 382.085(b)		
Rqmt Prov:	PERMIT Permit #6257E, Special Condition #1		
Description:	Failure of the Recycle Gas Compressor West Drainer Module Level Controller resulting in the release of contaminants from the relief valve to the atmosphere.		
Date:	03/06/2008 (616814)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THSC Chapter 382 382.085(b)		
Rqmt Prov:	PERMIT Permit #6257E		
Description:	Failure of the Quench Bleed Stripper Overhead Pressure Controller which resulted in the release of ethylene oxide to the atmosphere.		

F. Environmental audits.

Notice of Intent Date: 06/01/2007 (571660)
No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 SEP 22 AM 11:16
CHIEF CLEERNS OFFICE

IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
EQUISTAR CHEMICALS, LP
RN102926920

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-0714-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Equistar Chemicals, LP ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a chemical manufacturing plant at 5761 Underwood Road in Pasadena, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 29, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Six Hundred Fifty Dollars (\$5,650) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Two Hundred Sixty Dollars (\$2,260) of the administrative penalty and One Thousand One Hundred Thirty Dollars (\$1,130) is deferred

contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Two Thousand Two Hundred Sixty Dollars (\$2,260) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b) and Air Permit No. 6257E, Special Condition No. 1, as documented during an investigation conducted on February 15, 2008. Specifically, 875 pounds of ethylene and 737 pounds of ethylene oxide were released from Pressure Release Valve 43RV185 at Emission Point Number EOFUG when the Respondent failed to prevent the loss of electrical power to a portion of the Plant which caused the unit to shut down, resulting in an emissions event on February 2, 2008 which lasted for 4 minutes (Incident No. 103210). Since the emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Equistar Chemicals, LP, Docket No. 2008-0714-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Two Thousand Two Hundred Sixty Dollars (\$2,260) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement improvements to designs, operations, and/or maintenance practices that address the causes leading to the February 2, 2008 emissions event and are designed to prevent recurrence of same or similar incidents; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.a. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify that under the penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtained the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

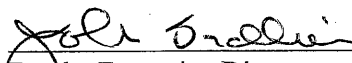
Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

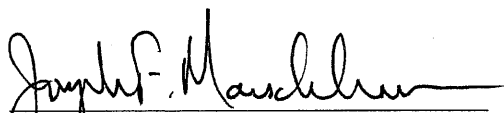
9/17/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

7/15/2008
Date

JOSEPH F. MARSCHHAUSEN
Name (Printed or typed)
Authorized Representative of
Equistar Chemicals, LP

PLANT MANAGER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2008-0714-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Equistar Chemicals, LP
Payable Penalty Amount:	Four Thousand Five Hundred Twenty Dollars (\$4,520)
SEP Amount:	Two Thousand Two Hundred Sixty Dollars (\$2,260)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Clean School Buses
Location of SEP:	Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The funds will be disbursed on a needs-rated basis, using non-attainment area status, condition of buses, and economic status of the recipient as possible rating factors if competition for the funds exists. To maximize funds, retrofitting will take priority over replacement of buses. Older buses deemed not suitable for retrofitting will be permanently retired and sold only for scrap.

Acceptable retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides (NO_x) reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by the United States Environmental Protection Agency ("EPA") or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate matter and hydrocarbon emissions from buses, to meet the new, more stringent emissions standards introduced by the EPA which will be phased in between 2007 and 2010.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

